

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

THE UNITED STATES OF AMERICA,

Plaintiff,

Case No.: 15-cr-20201-03

v.

HON. MARIANNE O. BATTANI
United States District Judge

D3-BRANDON SIMS,

Defendant.

GOVERNMENT'S SENTENCING MEMORANDUM

**“We was just ridin’ around the hood with our
chopper tryin’ ta rob anybody.”**

To the uninitiated this is shocking and disturbing. For Brandon Sims this was commonplace and ordinary. As a member of RTM, Sims partook in and planned multiple armed robberies. But he not only participated in violent criminal activity on behalf of RTM, Sims fostered a culture of violence within the gang that made this type of unnerving behavior both acceptable and expected.

To accomplish the statutory sentencing objectives, a meaningful term of incarceration is necessary. Specifically, a sentence of 108 months’ imprisonment will adequately punish Sims for his criminal conduct and safeguard the community from his criminal behavior and influence.

UNDERLYING RACKETEERING ACTIVITY SUPPORTING GUILTY PLEA

Related Through Money (“RTM”) is a criminal street gang that committed a sundry of crimes including murder, robbery, assault, carjacking, illegal firearm possession, home invasion, financial scams, and other offenses. Brandon Sims was a self-admitted member of RTM, and a member of the subgroup YNF. He frequently publicized his membership in the gang and boasted about gang activity on social media.

Time 2012-02-14 00:09:20 UTC

Story Joyrd Ynf B updated his status.

Message I'm finna start making niggas pay to get in RTM....#Rtm CEO B

Time 2012-01-24 18:13:00 UTC

Story Joyrd Ynf B updated his status.

Message FUK YFN CEOS IM RTM CEO N I SAY ELI N NUTTY YFN CEO



SIMS with RTM members Thedford, Moore, and Watts



SIMS' “YNF” tattoo

Importantly, Sims actively participated in the criminal activities of the gang. On June 13, 2014, Sims assisted in organizing the robbery of Saks Fifth Avenue in Troy, Michigan. After young men in the neighborhood were recruited to commit the actual robbery, Sims and co-defendant Thedford cased Saks in preparation for the crime.



Sims and Thedford casing Saks shortly before the robbery

After casing the store, Sims and Thedford coordinated with RTM associates in preparation for the robbery, reporting to them the location of the watches in the store. Shortly thereafter, RTM associates entered the store, armed with a dangerous weapon, and stole several watches from the display case by placing the store employees in fear. The stolen watches were valued at over \$88,000.



Associates of RTM robbing Saks of Cartier watches

In addition to the Saks robbery, Sims and other RTM members planned to commit more smash-and-grab style robberies of jewelry stores for high priced watches. Their plans were audio recorded by a cooperating witness. For example, calls on August 14, 2014, outline Sims' intention to rob a jewelry store in Ohio:

SIMS: It's the same store I sent you the pictures of bro.

CW: Huh?

SIMS: It's the same store I sent you the pictures of bro.

CW: Well, send the pictures ah, alright where we goin'?

SIMS: Nigga we fittin' ta go outside of Ohio bro. It's a jewelry store that start with a K. I can't pronounce that shit.

CW: Ok. With a K, outside Ohio.

SIMS: I can't pronounce.

CW: What city doe?

SIMS: It's in like, it's Water somethin' bro.

* * * * *

CW: I ain't fuckin' around, I'm not fuckin' with no other motherfuckers man, for niggas could gank and do all that, I gotta go through all that whole shit nigga I'm straight.

SIMS: What you mean gank this is me and Meyer trip bro, who gankin' who? Ain't nobody puttin' this but me and Meyer bro. **We sendin' some little niggas in their juveniles.** Who getting ganked?

* * * * *

SIMS: The (unintelligible) nigga, it's in Waysland (phonetic), Ohio, I just sent it to you bro.

CW: Bro. But you already got the little niggas and everything.

SIMS: **We got everything, the hammers, everything nigga. All we gotta do is drive there.**

* * * * *

CW: So is we ridin' back with the watches or what?

SIMS: Bro, we ridin' with the watches and the little niggas gonna get in the car with um, (unintelligible) people, and **Meyer gonna get in the car with me, you and Dre, when we get the watches.**

Fortunately, the plan to rob the jewelry store in Ohio did not come to fruition.

A few months later, Sims and other RTM members rekindled their attempts at robbing a jewelry store. On November 11, 2014, Sims spoke with the cooperating witness and told him that Thedford has juveniles to participate in the robbery and they have a stolen car to use:

SIMS: I say we fittin' ta go get these little niggas right now, and they already got the stoley [stolen car].

CW: Alright.

SIMS: This what Meyer tellin' me.

CW: Alright.

SIMS: Tellin' me he, he just called me right now, I'm 'boutta come get you. The little niggas ready and they got the stoley.

CW: Alright.

To be clear, Sims and other RTM members were planning on using minors to commit the robbery and had dangerous weapons ready to use in the robbery.

In the spring of 2012, RTM gang members, particularly those in the sub-group YNF, were searching for Marcus Cole—a rival gang member—in an attempt to exact revenge for Cole having shot Joshua Moore, an RTM leader. In the words of one gang member, RTM was “hunting” for Cole. This understanding (implicit or otherwise) amongst and between RTM gang members to retaliate with violence against Cole is jointly undertaken criminal activity that is properly scored under the Sentencing Guidelines. See U.S.S.G. § 1B1.3(a)(1)(B). Indeed, on May 10, 2012, a few weeks after Cole’s shooting, Deonta Matthews, one of the “CEOs” of RTM, located and murdered Cole.

ADVISORY GUIDELINE RANGE

Based on this above-described conduct, the government calculated the sentencing guidelines at 135 to 168 months. Defendant calculated the guidelines at 78 to 97 months. Initially, the parties disputed whether Sims should be held responsible for the relevant conduct of the homicide of rival gang member Marcus Cole. Sims, however, no longer disputes that scoring. Further, the probation department uncovered criminal juvenile adjudications not taken into account by the parties which increased defendant’s criminal history category. Thus, with the

scoring of the conspiracy to commit murder and the additional criminal history points, Sims' advisory sentencing guideline range is 168 to 210 months.

SECTION 3553(a) FACTORS

Through 18 U.S.C. § 3553(a) Congress has provided the relevant objectives and factors to be considered by sentencing courts in imposing a "sentence sufficient, but not greater than necessary." Those objectives are: (1) the nature and circumstances of the offense, and the history and characteristics of the defendant; (2) the need for a sentence to reflect the basic aims of sentencing (including retribution, deterrence, and rehabilitation); (3) the kinds of sentences legally available; (4) the Sentencing Guidelines; (5) Sentencing Commission policy statements; (6) the need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct; and (7) the need for restitution. A review of these factors support a sentence of 108 months' imprisonment. More particularly, a sentence of that length will reflect the seriousness of the offense, appropriately punish defendant, protect the public, and deter him (and others) from engaging in similar activity.

1. The nature and circumstances of the offense, and the history and characteristics of the defendant

As discussed above, the conduct that led to defendant's RICO conviction involved his enthusiastic participation in a violent street gang and, more

specifically, his active participation in robberies or planned robberies of jewelry stores. However, Sims' participation in RTM was not limited to the underlying racketeering acts that he acknowledged in his plea colloquy. Indeed, the nature and circumstances of the racketeering enterprise involved far more criminal activity.

In addition to the robberies that supported his guilty plea, Sims intended on committing additional robberies. For example, calls between Sims and the cooperating witness in August of 2014 reveal their plans to rob a jewelry store in Indianapolis:

SIMS: The motherfuckin', the store in Indianapolis, that's four hours away.

CW: It's in Indi, in Indianapolis.

SIMS: Yeah, four hours away. **We ain't gettin' no Roleys, no Breitlings, we getting', we getting' AP's** [Audemars Piguet].

CW: AP's.

SIMS: Um, hmm.

CW: It's in the mall?

SIMS: Uh, I don't know, I think it's a store.

CW: So how we gonna do it, what you. So you sayin' like you want me to drive off and drive there.

SIMS: We want, we just need you to drive, like, nigga, to go, 'cause we got (inaudible) car, Q car, Meyer gonna take his car, and then, I think, they gonna, they gonna get the stoley.

CW: (Unintelligible) drive...

SIMS: And we just needed you ta, we just need you ta go, to be like, take niggas there, so we can get there. **And after they hit the lick, we might put the watches in your car and then they ride in the other cars back.** We just need your car like a safe car. 'Cause you got a license and your car a rental.

CW: (Unintelligible)

SIMS: Yeah. And, and your little nigga, you could send one of them niggas in there if you had to, ta break the glass.

* * * * *

SIMS: Nigga, we goin' to Indianapolis. Four hours away.

UM: Who all goin'?

SIMS: Huh?

UM: Who all goin'?

SIMS: **I'm ridin' witch u. Meyer drivin' his whip, with the, one his little niggas and the other little niggas in the stoley.**

UM: (Unintelligible)

SIMS: Huh?

UM: All we got is follow 'em?

SIMS: **Yeah. Follow 'em all the way there, they gonna hit the shit in the stoley, then the watches gonna be in the car with me and you, and all the little niggas gonna get in the car with Meyer.**

UM: Alright.

SIMS: Alright, I'm gonna call ya.

While robberies of commercial establishments certainly provided a loftier payout, Sims and other RTM members were willing to rob anybody, anytime:

SIMS: What you tryin' to do, **shit right now we tryin' to find somebody to roll right now. We ridin' around here with the chopper** [assault rifle].

CW: Who?

SIMS: Right now, nigga, be ridin' around with that bitch.

CW: You ain't ridin' around in no chopper nigga, fuck no.

SIMS: On Nitty doe, on Nitty, ridin' around through the hood tryin' to find somebody real quick.

* * * * *

CW: **Hey, so, so look, so, so I need, if I, if I got somebody that slipping, you gonna pull up and rob 'em?**

SIMS: **Hell yeah, right now.**

* * * * *

CW: What 'cause the hood hot?

SIMS: ...'cause the hood hot. Bro he just made us make the hood hot, and he think he won't even get no real money, now we gotta lick that's on the

floor he ain't tryin' ta do. **We was just ridin' around the hood with our chopper [assault rifle] tryin' ta rob anybody.**

* * * * *

CW: What up?
SIMS: Man where you at?
CW: At the crib.
SIMS: You ain't put shit on the floor **we gotta ride and try an hit a lick**
CW: What you say?
SIMS: You ain't put shit on the floor man we got to ride try and hit somethin'
CW: Naw, I told you I was tryin' to put somethin' on the floor, I gotta wait on that one shit
SIMS: Damn we out here ridin' tryin' to get (unintelligible)
CW: What you say?
SIMS: I said we out here ridin' tryin' hit (unintelligible)
CW: You, you just tryin' to ride around and stick some shit like that some random shit
SIMS: That's what we doin' right now
CW: Who?
SIMS: Who you think nigga?
CW: Man you sound dumb as hell I'm at the muthafuckin' crib nigga outside my muthfuckin' crib, who you with?
SIMS: Meyer and Q
CW: **All you all, all you all tryni' to hit somethin' right now, ya'll, ya'll got the stick [firearm] on ya'll**
SIMS: **Yeah man**

As his conversations with a fellow RTM member outline, Sims was ready, willing, and able to commit violent criminal acts with his comrades.

Setting aside the robberies, Sims was instrumental in promoting the culture of violence that allowed RTM to thrive and be so dangerous. Because of gang members like Sims, crime became the norm and violence became acceptable. A sampling of his various posts on Facebook demonstrate:

Time 2011-06-20 04:25:13 UTC	Time 2011-06-25 06:59:58 UTC
Story Joyrd Ynf B updated his status.	Story YnfRichkid B ImHip updated his status.
Message Shot first ask questions lata rtm moto	Message messing wit YNF yhu messing wit sum killas

Time 2012-02-23 06:37:56 UTC
Story Joyrd Ynf B updated his status.
Message RTM or die

Time 2011-05-13 06:33:23 UTC
Story Joyrd Ynf B updated his status.
Message Ynf every nigga n my crew shoot.....dis a afta death thang free dezo millz n fat tae

Sims also actively advocated and publicized RTM's violent conflict with rival gangs such as TMC, CNE, TSN, and Bandcrew:

Time 2011-12-04 08:47:26 UTC
Story Joyrd Ynf B updated his status.
Message On sum real shyt i respect tmc and cne (ima ynf nigga to death forbid me)i respect dem niggas cause no matter how many times rtm whooped em n make em run they keep fighting.....click full of spoiled ass hateing cats

Time 2012-02-20 00:28:54 UTC
Story Joyrd Ynf B updated his status.
Message Video cuming soon tsn getting whooped skuddzone style

Recipients BigLeek FinallyRich (100003069573283)
Joyrd Ynf B (1348583394)
Author Joyrd Ynf B (1348583394)
Sent 2014-11-10 14:53:49 UTC
Deleted false
Body Bro I got 25 for that whip we finna do some shit to bandcrew u bs

In the event that anyone doubted his sincerity, Sims made it clear that he was able to back up his rhetoric:





Id 10204957529081807
Title Niggas want gun play we shooting down the play ground



An additional troubling aspect of Sims' behavior was his perpetuation of the "no snitch" mentality amongst gang members. Sims posted the following on Facebook:

- "New year same team bigger vision hustlers ambition most important rule of all no snitching"
- "Lil josh itching for a body rule number one never snitch on nobody"
- "You a snitch and don't deserve to live"
- "Friends turn into snitches you get killed if you mention"
- "If a snitch died today bet believe another one falling tomorrow"
- "----- a snitch he working wit da F.E.D.S. rt on my team"

In short, in addition to actively participating in violent criminal acts, Sims promoted a culture of violence within the gang that contributed to increased criminal behavior by gang members.

Nor does Sims come before this Court with a blank slate. He has prior juvenile adjudications for assault, resisting and obstructing, and unlawful use of a motor vehicle. While the prior adjudications do not appear to be particularly heinous, when coupled with his current case, defendant is undoubtedly on a dangerous trajectory.

The nature and circumstances of the offense, and the history and characteristics of the defendant, warrant a sentence of 108 months' imprisonment.

2. The need for a sentence to reflect the basic aims of sentencing (including retribution, deterrence, and rehabilitation)

A sentence of 108 months will also provide an appropriate amount of time to adequately deter Sims and others from participating in similar conduct, and offer skills necessary for rehabilitation. Additionally, general deterrence is particularly important in this case, not only because it will send a clear message to other RTM gang members who were not prosecuted, but hopefully deter young individuals in the community from involving themselves with such lawless individuals.

3. The kinds of sentences legally available

The Court may sentence defendant to a term of incarceration up to the statutory maximum of 20 years; however, if accepted by the Court, the Rule 11 plea agreement would limit the sentence to 168 months. There is no mandatory minimum sentence.

4. and 5. The Sentencing Guidelines and policy statements

The Sentencing Guidelines in this case are 168 to 210 months. There do not appear to be any policy statements directly applicable to Sims' sentence.

6. The need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct

A sentence of 108 months would be below the sentencing guidelines, but, in the instant case, any potential disparity among defendants found guilty of similar offenses would not be unwarranted given that Sims' guidelines were meaningfully increased based on relevant conduct of others.

7. The need for restitution

Sims should be ordered to pay restitution in the amount of \$88,500 for the watches stolen from Saks Fifth Avenue.

CONCLUSION

In sum, based on the totality of the circumstances a sentence of imprisonment of 108 months will be sufficient but not greater than necessary to accomplish the objectives of § 3553(a).

Respectfully submitted,

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Dated: February 23, 2017

CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2017, an employee of the United States Attorney's Office filed the attached document with the ECF system which will send notice to:

Richard Morgan, attorney for Brandon Sims.

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